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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/614,730

07/07/2003

Robert A. Nelson

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09/20/2006

MERCHANT & GOULD PC

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EXAMINER

HUNNINGS, TRAVIS R

ART UNIT

PAPER NUMBER

2612

DATE MAILED: 09/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/614,730

Applicant(s)

NELSON, ROBERT A.

Examiner

Travis R. Hunnings

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6 and 7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6 and 7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 4, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashi et al. (Hayashi; US Patent 5,912,512).

Regarding claim 1, Hayashi discloses *Engine Start Control Apparatus* that has the following claimed subject matters:

The claimed OEM starter for starting a vehicle is met by the ignition control device (44) as seen in figure 1, the vehicle having an engine and an ignition would be inherent for all vehicles;

The claimed OEM security system in communication with said starter is met by the immobilizer ECU (column 3, lines 53-57);

The claimed after-market by-pass kit for by-passing said OEM security system upon receipt of a data signal and enabling remote car starting of said vehicle without placing said key in said ignition is met by the engine start controlling means determining if a remote start should occur (column 1, lines 51-67 and column 2, lines 1-3);

The claimed after-market remote car starter device distinct and separate from said by-pass kit in communication with said by-pass kit for sending a data signal to said by-pass kit to start said engine is met by the remote switch (52) sending a key code to be checked to allow the engine to be started (column 5, lines 49-67 and column 6, lines 1-9);

The claimed remote car starter transmitter in wireless communication with said remote car starter device is met by the remote switch (52) being in wireless communication with the device as seen in figure 1;

The claimed communication between said by-pass unit and said remote car starter device is effected through a code-hopping mechanism; through encryption or through a unique code matching said by-pass unit to said remote car starter device is met by the key code matching the remote car starter device with that of the code stored in the immobilizer ECU (column 5, lines 64-67 and column 6, lines 1-9). The key code being matched meets the claimed embodiment of either a code-hopping mechanism, using encryption or using a unique code match.

Hayashi does not specifically disclose the claimed by-pass kit and remote car starter device being after-market components however it would have been obvious to one of ordinary skill in the art that the invention of Hayashi would be able to be installed either at manufacture or at a later date in order to use the device in more vehicles by more users.

Regarding claim 3, the claimed remote car starter is in communication with said by-pass kit through a cable is met by the device being organized as can be seen in figure 1 wherein the electrical components (excluding the remote switch (52)) are all connected through wires/cables.

Regarding claim 4, the claimed by-pass kit including a transponder on board is met by the remote transponder (72). The examiner takes official notice that it is well known in the art to encase electronic components in metal casing when used in vehicles to protect the sensitive electronics from potential damage from driving and heat.

Regarding claim 6, the claimed matching said by-pass unit to said remote starter comprises teaching said remote starter said unique identifier is met by storing the key code that is similar to the code build into the ignition key into the remote starter device in advance (column 5, lines 64-67 and column 6, lines 1-9).

Regarding claim 7, the claim is interpreted and rejected as claim 1 stated above.

3. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashi in view of Davidson et al. (Davidson; US Patent 6,265,788).

Regarding claim 2, Hayashi discloses all of the claimed limitations except for the claimed remote car starter being in wireless communication with said by-pass kit.

Davidson discloses *Wireless Induction Loop Control System* that teaches connecting a plurality of controlled electronic devices in an automobile through a wireless connection (column 2, lines 22-34 and 56-62). It would be beneficial to use the wireless system taught by Davidson in the system of Hayashi to reduce the number of wiring harnesses and wires, which would result in cost savings. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the device disclosed by Hayashi according to the teachings of Davidson to modify the system to be connected through a wireless connection.

Response to Arguments

4. Applicant's arguments filed 7 July 2006 have been fully considered but they are not persuasive. Applicant argues the following:

Argument A: Hayashi does not use an after-market kit and is instead an OEM feature and there is no motivation to make this an after-market kit.

Argument B: The immobilizer cannot be both a security system and a bypass kit.

Argument C: The remote switch cannot be in wireless communication with itself.

Responses:

Regarding argument A, it would have been obvious to use the features disclosed in Hayashi in either an OEM setting or an after-market setting in order to allow older vehicles the chance to incorporate newer features that are discovered after the older

models are manufactured. It is well known to provide after-market kits for a wide variety of vehicle components.

Regarding argument B, the bypass kit is met by the engine start controlling means of Hayashi which can be either the key or the remote engine starting device which sends an inherent code from an amplifying circuit to the ECU to bypass the ECU (column 4, lines 9-20, column 5, lines 64-67 and column 6, lines 1-9).

Regarding argument C, the remote switch is not communicating wirelessly with itself, the switch is communicating with the remote engine starting device which would inherently include a transmitter or transceiver to facilitate the communication with the switch and therefore the switch is communicating with that transmitter.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

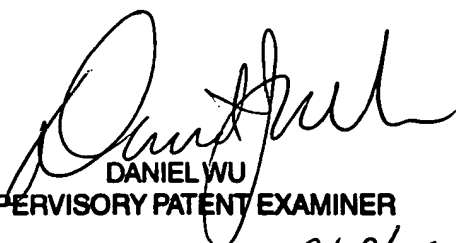
the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Travis R. Hunnings whose telephone number is (571) 272-3118. The examiner can normally be reached on 8:00 am - 5:00 pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Wu can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TRH


DANIEL WU
SUPERVISORY PATENT EXAMINER
9/18/06